

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RONALD J. ALLISON,

Plaintiff

Case No. 2:21-cv-01324-APG-DJA

ORDER

v.

CCDC,

Defendant

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a county inmate. On July 16, 2021, Magistrate Judge Albregts ordered plaintiff Ronald J. Allison to file a complaint in compliance with Local Special Rule 2-1 (LSR 2-1) and a fully complete application to proceed *in forma pauperis* or pay the full filing fee of \$402 by September 14, 2021. ECF No. 3 at 3. On July 26, 2021, the order was returned as undeliverable from the Clark County Detention Center. ECF No. 5. Allison has failed to apprise the court of his updated address.¹ The September 14, 2021 deadline has now expired, and Allison has not submitted a complaint in compliance with LSR 2-1, filed a fully complete application to proceed *in forma pauperis*, paid the full \$402 filing fee, or otherwise responded to the order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.

¹ Under Local Rule of Practice IA 3-1, a “pro se party must immediately file with the court written notification of any change of mailing address, email address, telephone number, or facsimile number. The notification must include proof of service on each opposing party or the party’s attorney. Failure to comply with this rule may result in the dismissal of the action, entry of default judgment, or other sanctions as deemed appropriate by the court.”

1 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
2 dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to
3 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-
4 54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,
5 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order
6 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
7 (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court
8 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming
9 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424
10 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local
11 rules).

12 In determining whether to dismiss an action for such reasons, the court must consider
13 several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's
14 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
15 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.
16 *See Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
17 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

18 Here, the first two factors (the public's interest in expeditiously resolving this litigation
19 and my interest in managing the docket) weigh in favor of dismissal. The third factor (risk of
20 prejudice to the defendants) also weighs in favor of dismissal because a presumption of injury
21 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
22 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
23 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the

1 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his
2 failure to obey the court's order will result in dismissal satisfies the "consideration of
3 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*,
4 779 F.2d at 1424. Judge Albregts' order expressly stated: "IT IS FURTHER ORDERED that, if
5 Plaintiff does not file a complaint in compliance with LSR 2-1 on or before September 14, 2021,
6 this case will be subject to dismissal without prejudice for Plaintiff to refile the case with the
7 Court, under a new case number, when Plaintiff is able to file a complaint in compliance with
8 LSR 2-1." Additionally, Judge Albregts' order stated: "IT IS FURTHER ORDERED that, if
9 Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three
10 documents or pay the full \$402 filing fee for a civil action on or before September 14, 2021, this
11 case will be subject to dismissal without prejudice for Plaintiff to refile the case with the Court,
12 under a new case number, when Plaintiff has all three documents needed to file a complete
13 application to proceed *in forma pauperis* or pays the the full \$402 filing fee." Thus, Allison had
14 adequate warning that dismissal would result from his noncompliance with Judge Albregts'
15 order.

16 I THEREFORE ORDER that this action is dismissed without prejudice based on plaintiff
17 Ronald J. Allison's failure to file a complaint in compliance with LSR 2-1 and file a fully
18 complete application to proceed *in forma pauperis* or pay the full \$402 filing fee in compliance
19 with this court's order dated July 16, 2021.

20 I FURTHER ORDER the Clerk of Court to close the case and enter judgment
21 accordingly. No other documents may be filed in this now-closed case.

22 DATED: September 24, 2021.

23 

ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE